

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. Petitioner received case management services from the Division of Vocational Rehabilitation (VR) until November 1, 2006. VR works in partnership with the Department when the Reach Up recipient is eligible for VR services due to a physical and/or mental condition.

3. Petitioner's VR case was assigned to C. C-B., certified VR counselor, during March 2005.

4. VR uses an Independent Plan for Employment (IPE) in place of the Department's Family Development Plan.

5. On or about June 6, 2005, petitioner and C. C-B. signed an IPE. C. C-B. identified petitioner's barriers to employment as mental health and physical health. Petitioner identified medical or general office assistant as her employment goal. Petitioner agreed to attend group therapy through a women's group co-facilitated by C. C-B. and A.P. from Northwest Counseling Services (NCSS). Petitioner agreed to attend the Medical Office Tech Program and paraeducator classes at Northwest Technical Center (NTC) starting in the fall. Petitioner's responsibilities included meeting regularly with C. C-B. and performing activities required by C. C-B. VR agreed to provide intensive case management and approve expenses for clothing, transportation, and medical expenses not covered by Medicaid.

6. C. C-B. recommended that petitioner be sanctioned for non-compliance on or about October 12, 2006 based on several events including (a) not following through with a WTE (work training experience) at CVOEO (Champlain Office of Economic Opportunity), (b) not completing course work at NTC

nor applying for a VSAC grant to cover her tuition, (c) declining a WTE at Club Respite, and (d) not returning a phone call to C. C-B. on October 2, 2006. C. C-B. also noted that petitioner did not follow through with recommendations for individual therapy. Petitioner had been conciliated on two prior occasions, September 16, 2002 and June 1, 2004.

7. CVOEO. On August 1, 2006, petitioner contacted T.P. at CVOEO and asked whether CVOEO could place her in a WTE. T.P. wrote VR on August 1, 2006 that petitioner would be working as a volunteer to update CVOEO's resource directory and that the project could take a few weeks. C. C-B. contacted T.P. by e-mail on or about October 11, 2006 asking whether petitioner had followed through on the WTE. T.P. replied to C. C-B. on October 16, 2006 that petitioner had not contacted them until that day and that they had someone else doing the project. Petitioner testified that she contacted T.P. on or about August 4, 2006 and was told that CVOEO had another volunteer.

8. NTC course work. Petitioner first attempted to complete the Medical Office Technology Program at NTC in 2005. Petitioner enrolled in the Medical Office Technology Program for the 2006 fall semester. As part of her enrollment, petitioner needed to apply to VSAC for a grant;

she did not do so. C. C-B. was contacted by M.S., NTC adult services, on September 22, 2006 indicating that petitioner attended the first week of classes then disappeared. C. C-B. followed up with M.S. on October 11, 2006 asking if petitioner had returned to classes. On October 12, 2006, M.S. indicated that petitioner had not returned and that she had contacted petitioner who stated she could not attend class due to pain.¹ On October 16, 2006, M.S. wrote C. C-B. that petitioner would not be able to make up the Medical Coding and the Medical Office Practice classes but that she could join the Medical Terminology class and make up the missed work. Petitioner did not complete any of the NTC courses. Petitioner testified that she was unable to complete the courses due to a painful ovarian cyst and that she was told by M.S. to wait until her health was better.

9. Club Respite. Club Respite is a senior day program. Petitioner testified that she contacted Club Respite for a WTE but determined that she would not be able to physically assist patients get up from chairs due to her health problems.

¹ Petitioner received medical deferments in 2002, 2003, and 2004. Petitioner submitted a medical deferment during January 2007. Petitioner did not seek a medical deferment during the fall of 2006 and did not bring any documentation to the hearing of her medical condition in the fall of 2006.

10. October 2, 2006. According to C. C-B., she telephoned petitioner on October 2, 2006 and left a message for petitioner to contact her. Petitioner did not do so. Their next contact took place October 16, 2006.

11. C. C-B. sent a Sanction Authorization on October 12, 2006 to N.K., the district director designee. C. C-B. testified that she sent the Sanction Authorization because petitioner was making no progress towards her employment goals and because petitioner's actions constituted a pattern of non-compliance. The Sanction Authorization included several recommendations for petitioner to cure the sanction. N.K. signed the Sanction Authorization on October 12, 2006.

12. On October 17, 2006, the Department sent petitioner a notice that her RUFA benefits were being sanctioned as of November 1, 2006 and that her case was reassigned to C.J.

13. C.J. testified that the petitioner had not cured the sanction as of the hearing date.

ORDER

The Department's decision is affirmed.

REASONS

Under the Reach Up program, petitioner has certain obligations including attendance at meetings and fulfilling the requirements of her IPE. W.A.M. §§ 2361 and 2362. If petitioner does not comply with the IPE requirements, petitioner can face financial sanctions unless there is good cause. W.A.M. § 2370.1. The good cause provisions are set out in W.A.M. § 2370.32.

The evidence clearly indicates that the petitioner failed to fully participate in her IPE. Under the regulations, petitioner's lack of response to C. C-B.'s October 2, 2006 alone is sufficient to demonstrate non-compliance.

In addition, the evidence shows a pattern by the petitioner of not following through with the components of her IPE. Petitioner did not start her WTE with CVOEO. Over two months elapsed before petitioner returned to CVOEO about the WTE. By that time, CVOEO had accepted another volunteer for the project. Petitioner did not complete her coursework at NTC.

Moreover, petitioner did not meet any of the criteria for good cause for failure to comply with her IPE found in W.A.M. § 2370.32. Although a participant's illness may be

good cause for failure to comply with IPE requirements, the participant is obliged to notify the appropriate person at the earliest moment. W.A.M. § 2370.32(5). Here, petitioner does not meet this standard. The evidence demonstrates that M.S. made efforts to track down petitioner when petitioner did not attend NTC classes. Petitioner did not keep M.S. informed of the reasons for her absences and did not keep C. C-B. informed of health issues impacting on her participation.

Because petitioner has met the limit of two conciliations within a sixty month period, petitioner faces sanctions. W.A.M. §§ 2371, 2372. Based on the evidence, it must be concluded that the Department's decision is in accord with the regulations and that the Board should affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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